MONTANA LEGISLATIVE HISTORY

BEST COPY AVAILABLE

Chapter 506 19 95

Bill H _____ S 423 Original bill & history ✓ C

H. Committee on	Education & Cultural Resources		S. Committee on	Education & Cultural Resources	
Hearing Date(s)	Apr 03	✓ C	Hearing Date(s)	Mar 22	✓ C
		C			C
		C			C
		C			C
Date Out	Apr 04	✓ C		Mar 23	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

3/29	MISSED TRANSMITTAL DEADLINE FOR 71ST DAY DIED IN COMMITTEE		

SB 421 INTRODUCED BY HARP, ET AL.

AMEND PROPERTY TAX LIMITATIONS IMPLEMENTING INITIATIVE MEASURE NO. 105 BY CHANGING EXCEPTIONS TO LIMITATIONS

3/11	INTRODUCED		
3/11	FIRST READING		
3/11	REFERRED TO TAXATION		
3/13	FISCAL NOTE REQUESTED		
3/17	HEARING		
3/24	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/27	2ND READING PASSED	28	21
3/28	FISCAL NOTE PRINTED		
3/28	3RD READING PASSED	30	20
	TRANSMITTED TO HOUSE		
3/29	FIRST READING		
3/29	REFERRED TO TAXATION		
4/04	HEARING		
4/06	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/07	2ND READING CONCURRED	65	31
4/08	3RD READING CONCURRED	65	33
	RETURNED TO SENATE WITH AMENDMENTS		
4/11	2ND READING AMENDMENTS CONCURRED DIED IN PROCESS	28	22

SB 422 INTRODUCED BY MILLER

ALLOW DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO AUCTION UNCLAIMED GAME MEAT IN ORDER TO RECOVER UNPAID CHARGES OF COMMERCIAL MEAT PROCESSORS

BY REQUEST OF THE SENATE FISH AND GAME COMMITTEE

3/17	INTRODUCED		
3/17	FIRST READING		
3/17	REFERRED TO FISH & GAME		
3/17	FISCAL NOTE REQUESTED		
3/21	HEARING		
3/21	FISCAL NOTE RECEIVED		
3/21	FISCAL NOTE PRINTED		
3/22	COMMITTEE REPORT—BILL PASSED		
3/25	2ND READING DO PASS AS AMENDED FAILED	18	28
3/25	2ND READING INDEFINITELY POSTPONED	28	18

SB 423 INTRODUCED BY GROSFIELD, ET AL.

REVISE CERTAIN SCHOOL FINANCE LAWS

3/18	INTRODUCED		
3/18	FIRST READING		
3/18	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/20	FISCAL NOTE REQUESTED		
3/22	HEARING		
3/23	FISCAL NOTE RECEIVED		
3/24	FISCAL NOTE PRINTED		
3/24	COMMITTEE REPORT—BILL PASSED		
3/27	2ND READING PASSED AS AMENDED	49	0
3/28	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/29	FIRST READING		
3/29	REFERRED TO EDUCATION & CULTURAL RESOURCES		

4/03	HEARING		
4/04	COMMITTEE REPORT—BILL CONCURRED		
4/05	2ND READING CONCURRED	95	3
4/06	3RD READING CONCURRED	95	4
	RETURNED TO SENATE		
4/08	SIGNED BY PRESIDENT		
4/10	SIGNED BY SPEAKER		
4/10	TRANSMITTED TO GOVERNOR		
4/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 506		
	EFFECTIVE DATE: 04/15/95		

SB 424 INTRODUCED BY GAGE

REVISE CALCULATION OF UNIT VALUE FOR LOCAL GOVERNMENT SEVERANCE TAX PURPOSES

BY REQUEST OF SENATE TAXATION COMMITTEE

3/21	INTRODUCED		
3/21	FIRST READING		
3/21	REFERRED TO TAXATION		
3/22	FISCAL NOTE REQUESTED		
3/24	HEARING		
3/24	TABLED IN COMMITTEE		
3/25	FISCAL NOTE RECEIVED		
3/25	FISCAL NOTE PRINTED		
3/25	TAKEN FROM COMMITTEE AND PLACED ON 2ND READING	23	19
3/27	2ND READING PASSED AS AMENDED	40	9
3/28	3RD READING PASSED	38	12
	TRANSMITTED TO HOUSE		
3/29	FIRST READING		
3/29	REFERRED TO TAXATION		
4/04	HEARING		
4/05	REVISED FISCAL NOTE PRINTED		
4/06	COMMITTEE REPORT—BILL CONCURRED		
4/07	2ND READING CONCURRED	80	15
4/08	3RD READING CONCURRED	89	9
	RETURNED TO SENATE		
4/11	SIGNED BY PRESIDENT		
4/11	SIGNED BY SPEAKER		
4/11	TRANSMITTED TO GOVERNOR		
4/14	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 453		
	EFFECTIVE DATE: 04/14/95		

SB 425 INTRODUCED BY HOLDEN, ET AL.

PROVIDE INDIVIDUAL INCOME TAX CREDIT AGAINST PROPERTY TAXES PAID ON TAXPAYER'S RESIDENCE

3/21	INTRODUCED		
3/21	REFERRED TO TAXATION		
3/22	FISCAL NOTE REQUESTED		
3/22	FIRST READING		
3/24	HEARING		
3/25	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/27	FISCAL NOTE RECEIVED		
3/27	FISCAL NOTE PRINTED		
3/27	2ND READING PASSED	29	20
3/28	3RD READING FAILED	24	26

SENATE BILL NO. 423

INTRODUCED BY Bob Hockett Tom Hager

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN SCHOOL FINANCE LAWS; CHANGING THE STATUS OF SCHOOL DISTRICT GENERAL BONUS PAYMENTS IN DETERMINING GENERAL FUND BALANCE OPERATING RESERVE FUNDS; ALLOWING RURAL SCHOOL DISTRICTS TO NEGOTIATE FOR VOLUNTARY IMPACT PAYMENTS TO THE DISTRICT BUILDING FUND TO COVER DEVELOPMENT IN THE DISTRICT; AMENDING SECTIONS 20-9-104, 20-9-508, AND 76-3-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-9-104, MCA, is amended to read:

"20-9-104. General fund operating reserve. (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5) and (6), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Excess reserves as provided in subsection (5) may be appropriated to reduce the BASE budget levy, the over-BASE budget levy, or the additional levy provided by 20-9-353, except that districts with a balance on June 30, 1993, in the excess reserve account for Public Law 81-874 funds shall transfer the June 30, 1993, balance to the impact aid fund established in 20-9-514.

(4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b).

(5) For fiscal year 1994 and subsequent fiscal years, the limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than the unused balance of any amount

received:

(a)(i) in settlement of tax payments protested in a prior school fiscal year;

~~(b)~~(ii) in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; and

~~(c)~~(iii) in delinquent taxes from a prior school fiscal year~~.~~; or

(b) any amount a district was entitled to as a general bonus payment prior to July 1, 1994.

(6) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is $10,000 or less."

NEW SECTION. **Section 2. Rural residential impact payments.** (1) The trustees of a rural school district may negotiate with a real estate developer or subdivision developer in the school district to voluntarily contribute an impact payment to the district's building fund. The amount of the payment must be based upon the number of pupils reasonably expected to move into the district because of the real estate development or subdivision development.

(2) For the purposes of this section, "rural school district" means a school district in which a majority of the pupils in the district reside outside the limits of any incorporated city or town.

Section 3. Section 20-9-508, MCA, is amended to read:

"**20-9-508. Building fund.** (1) The trustees of any district shall establish or credit the building fund whenever ~~such~~ the district:

(a) issues and sells bonds under the school district bonding provisions of this title for purposes other than refunding bonds of the district;

(b) receives federal money for the express purpose of building, enlarging, or remodeling a school building or other building of the district;

(c) sells property of the district in accordance with the law authorizing ~~such~~ the sale;

(d) receives money as an insurance settlement for the destruction of any property or portion of property insured by the district;

(e) earns interest from the investment of building fund ~~moneys~~ money under the provisions of 20-9-213(4), except that interest earned from the investment of bond ~~moneys~~ money under the provisions of 20-9-435 ~~shall~~ must be credited to a fund in accordance with ~~such~~ that section; or

(f) receives any other ~~moneys~~ money, including payments made by a developer under the provisions of [section 2], for the express purpose of building, enlarging, or remodeling a school building or other building of the district.

(2) The financial administration of the building fund ~~shall~~ must be in accordance with the financial administration provisions of this title for a nonbudgeted fund and ~~shall~~ must provide for a separate accounting of the ~~moneys~~ money realized by each bond issue or by each construction project financed by a federal grant of ~~moneys~~ money. Any other ~~moneys~~ money deposited to the credit of this fund ~~shall~~ must be expended for building, enlargement, remodeling, or repairing of buildings of the district at the discretion of the trustees.

(3) ~~Moneys~~ Money credited to the building fund under the provisions of subsection (1)(a) ~~of this section shall~~ must be expended for the express purpose or purposes authorized by the bond proposition approved at the election authorizing the issuance of ~~such~~ the bonds. Any money realized by the sale of bonds and remaining to the credit of the building fund after the full accomplishment of the purpose for which the bonds were sold ~~shall~~ must be transferred to the debt service fund to be used for the redemption of the bonds ~~of such issue~~.

(4) ~~Moneys~~ Money credited to the building fund under the provisions of subsection (1)(b) ~~of this section shall~~ must be expended for the express purpose or purposes authorized by the federal government in granting ~~such moneys~~ the money."

Section 4. Section 76-3-601, MCA, is amended to read:

"76-3-601. Submission of preliminary plat for review. (1) Except ~~where~~ when a plat is eligible for summary approval, the subdivider shall present to the governing body or to the agent or agency designated ~~thereby~~ by the governing body the preliminary plat of the proposed subdivision for local review. The preliminary plat ~~shall~~ must show all pertinent features of the proposed subdivision and all proposed improvements.

(2) (a) When the proposed subdivision lies within the boundaries of an incorporated city or town, the preliminary plat ~~shall~~ must be submitted to and approved by the city or town governing body.

(b) When the proposed subdivision is situated entirely in an unincorporated area, the preliminary plat ~~shall~~ must be submitted to and approved by the governing body of the county. However, if the proposed subdivision lies within 1 mile of a third-class city or town or within 2 miles of a second-class city

or within 3 miles of a first-class city, the county governing body shall submit the preliminary plat to the city or town governing body or its designated agent for review and comment. If the proposed subdivision is situated within a rural school district, as described in [section 2], the county governing body shall provide an informational copy of the preliminary plat to school district trustees.

(c) If the proposed subdivision lies partly within an incorporated city or town, the proposed plat ~~thereof~~ must be submitted to and approved by both the city or town and the county governing bodies.

(d) When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall coordinate the subdivision review and annexation procedures to minimize duplication of hearings, reports, and other requirements whenever possible.

(3) ~~This section and~~ The provisions of 76-3-604, 76-3-605, and 76-3-608 through 76-3-610 and this section do not limit the authority of certain municipalities to regulate subdivisions beyond their corporate limits pursuant to 7-3-4444."

NEW SECTION. **Section 5. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 20, and the provisions of Title 20 apply to [section 2].

NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0423, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act revising certain school finance laws; changing the status of school district general bonus payments in determining general fund balance operating reserve funds; allowing rural school districts to negotiate for voluntary impact payments to the district building fund to cover development in the district.

ASSUMPTIONS:

1. Four school districts have bonus payments set aside in a general fund excess reserve. These districts are:

Three Forks Elementary	$22,500
Circle Elementary	$2,700
Shields Valley Elementary	$113,022
Shields Valley High School	$36,755

2. No additional bonus payments will be made to school districts in the future. Under current law, the four districts listed would need to reappropriate bonus payments to fund the general fund BASE or over-BASE budget levy of the district in FY96.

3. Circle Elementary and Shields Valley High School are budgeting above the BASE budget level, so it is assumed that any bonus payments that are reappropriated will be used to reduce local property taxes with no impact on state GTB aid to these districts.

4. Three Forks Elementary and Shields Valley Elementary are budgeting at or below the BASE budget level, so state GTB costs will increase to the extent that the districts continue to reserve bonus payments and do not use the funds to reduce the BASE levy requirement. In the Shields Valley elementary district, state GTB aid funds 34% of the districts BASE levy requirement, with the remaining 64% funded by local property taxes. The state GTB cost associate with allowing the Shields Valley elementary district to continue to reserve bonus payments is $38,427. In the Three Forks elementary district, the state share of the BASE levy requirement is 19%; therefore, the state GTB cost associated with allowing the Three Forks elementary district to continue to reserve bonus payments is $4,275.

5. The provisions in SB 423 for districts to negotiate with developer's for impact fees will have no impact on state support for public schools in the 1997 biennium.

FISCAL IMPACT: State GTB costs will increase by $42,700 in FY 1996.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
The collection of local impact fees may reduce the size of school bond issues in school districts with growing enrollments, thus limiting the increases in local property taxes for debt service payments.

Dave Lewis 3-23-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

L. GROSFIELD, PRIMARY SPONSOR DATE

SEN. TOEWS said he would draft the letter and have more information ready before **HB 485** gets to the Senate floor.

HEARING ON HB 423

Opening Statement by Sponsor:

SEN. LORENTS GROSFIELD, SD 13, Big Timber, said Page 2, Section 1, Subsection b, of **HB 423** pertains to the Shields Valley consolidation in Park County. He explained they still have a small amount of money as the result of the consolidation and they need the authority of **HB 423** to keep the money while they decide what to do with it.

SEN. GROSFIELD referred to Page 4, Lines 2-4, and explained when the directive is carried out, Page 2, Section 2, becomes effective. He stressed the word "may" means voluntary. **SEN. GROSFIELD** said since this concept was new, he didn't want to apply it state-wide; rather, he suggested starting with the rural areas.

SEN. GROSFIELD reminded the committee both issues are reserve fund issues, yet are different. He asked the committee's favorable vote on both issues; however, if they voted to eliminate one, he would prefer Section 1 be kept.

Proponents' Testimony:

Rich Shaffer, Superintendent, Shields Valley Public Schools, read excerpts from his written testimony (EXHIBIT 6), and said Shields Valley was experiencing growth; in fact, if it continued, the school would be forced to consider either major remodeling or building within the next several years. He said the trustees would ask for the option to retain the above-mentioned money to help in the project. **Mr. Shaffer** informed the committee there were four other schools who were receiving the above-mentioned funds, but they were spending the monies and were not placing them in reserve. He asked the committee's favorable consideration of **SB 423.**

Don Waldron, Montana Rural Education Association (MREA), said MREA favored **SB 423,** explaining it was a good thing for developers to check with school districts before developing a subdivision for such things as bus stops, numbers of potential students, etc.

{Tape: 1; Side: B}

Opponents' Testimony:

Chris Racicot, Executive Director, Montana Building Industry Association, said his organization had some concerns regarding agreement between a subdivision developer and a

school district, explaining those voluntary agreements can become compulsory which then can become impact fees. **Mr. Racicot** said the area of impact fees is very complicated and needs to be studied extensively before Montana considers it, especially as it deals with funding for schools.

Mr. Racicot said his testimony was one of caution, rather than as an opponent. He stated there currently are provisions to allow the voluntary action mentioned in **SB 423**, which makes the bill unnecessary.

Questions From Committee Members and Responses:

SEN. WATERMAN commented a few years ago, a development was proposed in Montana City, and a condition for the county's approval was an impact fee which was an assessment placed on each lot. **Chris Racicot** agreed, and said it was a situation where the school board and county commissioners were looking for extra funding sources beyond bonding issues because they had reached their capacity.

SEN. WATERMAN asked if the two entities clearly had the authority to explore the above-mentioned procedure, or had there been a legal challenge. **Mr. Racicot** said he understood impact fees were legal in Montana for sewer, water and roads only; however, not for schools. He explained they weren't legal for schools because property taxes come from a broad base and impact fees were assessed to a small group of users who have moved into the area.

SEN. STANG asked if there was constitutional standing to ask for voluntary impact fees. **Chris Racicot** said there was.

SEN. STANG asked in what section of law that could be found. **Mr. Racicot** said he didn't know. **Eddye McClure** said Article X, Section VIII, (local control to schools) made this legal for local trustees.

SEN. WATERMAN asked if there was a time limit or expenditure stipulation, under Section 2, for a district to negotiate for voluntary agreement for impact fees. **Eddye McClure** said the fees were to go into the Building Reserve Fund. **Rich Shaffer** said the building fund was an ongoing fund and the fees deposited would remain until the trustees determined to use them.

SEN. JOHN HERTEL asked if the money in the fund could be invested. **Mr. Shaffer** said it could.

SEN. GAGE asked if it was currently possible to do what Section 2 said, i.e. was Section 2 necessary. **Mr. Shaffer** said he was unaware of any provision for notification by a county planning board or developer.

SEN. GAGE said he was concerned about the voluntary, as mentioned in Section 2, becoming mandatory sometime in the future. **Rich**

Shaffer said he couldn't address that question, but he asked the committee to insert "and/or the number of building units" (Section 2).

SEN. GAGE asked if the language would keep a developer from voluntarily giving a specific amount, based on his desire to have a very good school which would in turn help sell his development, i.e. was it possible to make voluntary contributions to a public school without **SB 423. Michael Keedy** said it was.

Don Waldron said in some areas the county planning board won't give a developer approval until he found out how many school children there would be and how the school would handle the children. He stressed the advantages for both the developer and school board to talk over issues like bus routes, improved roads, school tapping into the subdivision's water supply, etc.

SEN. WATERMAN asked if it were mandatory for the developer to notify the school board regarding potential numbers of students. **Mr. Waldron** said he was unaware of a law; rather, it was a courtesy.

SEN. GARY FORRESTER asked how Page 2, Section 2, would affect **Chris Racicot's** organization. **Mr. Racicot** said his main point as an opponent was voluntary could become mandatory. He also reminded the committee impact aid was extremely complicated.

SEN. DARYL TOEWS asked what would happen if Section 2 were stricken. **Eddye McClure** said Sections 3 and 4 were based on Section 2; however, she supposed there could be an amendment which would refer to notice and not payments.

Closing by Sponsor:

SEN. GROSFIELD had to leave to be part of another committee, so he was unavailable for closing.

EXECUTIVE ACTION ON SENATE BILL 423

SEN. HERTEL opined Section 1 was necessary because of the situation in Shields Valley school and he would be in favor of that portion of **SB 423.**

Motion: SEN. BARRY "SPOOK" STANG MOVED SB 423 DO PASS.

Substitute Motion: SEN. MIGNON WATERMAN MOVED SB 423 BE AMENDED BY DELETING SECTION 2 & SECTION 3 AND ALTER SECTION 4, PAGE 4, SO A NOTICE BE REQUIRED TO BE GIVEN SCHOOL TRUSTEES OF THE PROPOSED SUBDIVISION.

Discussion: **SEN. STANG** said he opposed the substitute motion because the builders association's opposition to the potential concept of the contribution mandatory will be just as strong if Section 2 remains or is removed with the intent of reinstatement in the next legislative session. He commented school districts should be able to accept voluntary impact payments at the present time.

SEN. WATERMAN said she believed schools were now able to negotiate these payments but she knew of people who were concerned about $14,000 impact fees as per subdivision law. She said developers could voluntarily contribute impact payments without **SB 423.**

SEN. STANG asked if precedent had been set which would allow voluntary contributions.

SEN. GAGE commented just because it didn't seem the above had been done, someone would be precluded from making a contribution of land or money. **Eddye McClure** said she asked Greg Petesch why "trustees from a rural school district" was used and she was told it was because Article X, Section 8, of the Constitution which refers to local control by the trustees. She said she would give committee members copies of the memo explaining that.

SEN. STANG commented if Greg Petesch had a ruling because of Article X and school board laws that impact contributions can be made by the time **SB 423** is on the Senate floor, he would have no problem in removing Section 2 from the bill. However, he would be averse to removing Section 2 in committee, and reinstating it on the Senate floor.

SEN. HERTEL asked if it were necessary to act on **SB 423** today and **SEN. TOEWS** said it was because of the deadline to transmit a Senate bill to the House.

Vote: Motion to **AMEND SB 423 FAILED** 4-5 on roll call vote #1.

Motion/Vote: **SEN. CASEY EMERSON MOVED SB 423 DO PASS.** Motion **PASSED** 8-1 on a voice vote, with **SEN. FORRESTER** voting "No."

EXECUTIVE ACTION ON HOUSE BILL 369

Motion/Vote: **SEN. DELWYN GAGE MOVED TO RECONSIDER HB 369 AS AMENDED.** Motion **FAILED** 5-5 on roll call vote #2, with **SEN. DOHERTY's** Proxy Vote.

HOUSE OF REPRESENTATIVES

Education

ROLL CALL DATE 4-3-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Alvin Ellis, Jr., Chairman	X		
Rep. Peggy Arnott, Vice Chairman, Majority	X		
Rep. Vicki Cocchiarella, Vice Chair, Minority	X		
Rep. Matt Denny	X		
Rep. Sonny Hanson	X		
Rep. Dan Harrington	X		
Rep. George Heavy Runner	X		
Rep. Jack Herron	X		
Rep. Joan Hurdle	X		
Rep. Bob Keenan	X		
Rep. Sam Kitzenberg	X		
Rep. Gay Ann Masolo	X		
Rep. Norm Mills	X		
Rep. Bill Rehbein		X	
Rep. Sam Rose	X		
Rep. Debbie Shea	X		
Rep. Dick Simpkins	X		
Rep. Diana Wyatt		X	

HOUSE STANDING COMMITTEE REPORT

April 4, 1995

Mr. Speaker: We, the committee on **Education and Cultural Resources** report that **Senate Bill 423** (third reading copy -- blue) **be concurred in.**

Signed: _____
Alvin Ellis, Jr., Chair

Carried by: Rep. Anderson

Committee Vote:

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Education Committee

DATE 1-3-95 BILL NO. SB 123 NUMBER _____

MOTION: Rep. Cocchiarella - Do Concur

NAME	AYE	NO
Rep. Alvin Ellis, Jr., Chairman	X	
Rep. Peggy Arnott, Vice Chairman, Majority	X	
Rep. Vicki Cocchiarella, Vice Chairman, Minority	Y	
Rep. Matt Denny	X	
Rep. Sonny Hanson	X	
Rep. Dan Harrington	X	
Rep. George Heavy Runner	X	
Rep. Jack Herron	X	
Rep. Joan Hurdle	X	
Rep. Bob Keenan	X	
Rep. Sam Kitzenberg	X	
Rep. Gay Ann Masolo	X	
Rep. Norm Mills	X	
Rep. Bill Rehbein		
Rep. Sam Rose	X	
Rep. Debbie Shea	X	
Rep. Dick Simpkins	X	
Rep. Diana Wyatt	X	

IM 0

EXHIBIT 1
DATE 4/3/95
SB 423

SHIELDS VALLEY PUBLIC SCHOOLS

HIGH SCHOOL
P.O. Box 40
Clyde Park, MT 59018
Phone 406-686-4621

PARK COUNTY SCHOOL DISTRICTS J12 & 5
P.O. Box 131 • Wilsall, Montana 59086
Superintendent: 406-578-2535
Fax: 578-2176

ELEMENTARY
P.O. Box 131
Wilsall, MT 590[illegible]
Phone 406-578-25

19 January 1995

TO: Senator Grosfield
Representative Anderson

FROM: Rich Shaffer, superintendent

RE: Enabling language for consolidation bonus payment excess reserves

I have investigated further regarding this matter following our telephone conversations. Information from the Office of Public Instruction reveals that, including Shields Valley, there are only five schools involved in this matter in any way. I have contacted each of the other four schools. Their superintendents have informed me that none of them are holding or plan to hold any of the payment funds in reserve. In other words, they are using it as they receive it, perhaps because the amounts are smaller. In any event, Shields Valley appears to be the sole district holding a general fund bonus payment excess reserve.

I am also told that the solution for our dilemma is reasonably straightforward, involving restoration of one sentence in the law. That sentence is MCA 20-9-104, 5 (b), quote: "any amount received as a general bonus payment under 20-6-401." 20-9-104 deals with the topic of general fund operating reserves and part five of that section deals specifically with exemptions on reserve limitations. The 1993 special session removed that sentence, possibly in the belief that there were no longer any schools effected. That is clearly not the case.

To refresh your memory, the district has approximately $150,000 in reserve at this time, and wishes to have the option to hold the funds for a possible facilities expansion project in the future. If this cannot be accomplished, the district must either expend the funds or reappropriate them not later than June 30, 1995.

For your convenience, I have included copies of (1) the printout from OPI re schools receiving payments at this time, and (2) a copy of the relevant statute. Should further information be necessary, please contact me.

20-9-104. General fund operating reserve. (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5) and (6), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Excess reserves as provided in subsection (5) may be appropriated to reduce the BASE budget levy, the over-BASE budget levy, or the additional levy provided by 20-9-353, except that districts with a balance on June 30, 1993, in the excess reserve account for Public Law 81-874 funds shall transfer the June 30, 1993, balance to the impact aid fund established in 20-9-514.

(4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b)(iii).

(5) For fiscal year 1994 and subsequent fiscal years, the limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than one or more of the following:

(a) the unused balance of any amount received:

(i) in settlement of tax payments protested in a prior school fiscal year;

(ii) in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; and

(iii) in delinquent taxes from a prior school fiscal year; or

(b) any amount received as a general bonus payment under 20-6-401.

(6) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is $10,000 or less.

History: En. 75-6924 by Sec. 274, Ch. 5, L. 1971; R.C.M. 1947, 75-6924; amd. Sec. 20, Ch. 11, Sp. L. June 1989; amd. Sec. 7, Ch. 767, L. 1991; amd. Secs. 2, 12, Ch. 6, Sp. L. July 1992; amd. Sec. 11, Ch. 633, L. 1993.

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1993 Amendment: Chapter 633 in (1), in second sentence after "(5)", substituted "and (6)" for "through (7)"; in (3) substituted "BASE budget levy, the over-BASE budget levy, or the additional" for "permissive levy provided by 20-9-145 or to reduce the voted" and after "20-9-353" inserted exception clause; deleted former (5)(a) providing that limitation is not applicable to "any amount received under Public Law 81-874"; and deleted (7) that read: "(7) For fiscal year 1993, the limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than the amounts identified by a school district as one or more of the following:

(a) any amount received under Public Law 81-874;

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(ii) in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; and

(iii) in delinquent taxes from a prior school fiscal year; or

(c) any amount received as a general bonus payment under 20-6-401." Amendment effective July 1, 1993.

Effective Date — Retroactive Applicability: Section 59(2), Ch. 633, L. 1993, provided: "(2) [Section 11] [20-9-104] is effective July 1, 1993, and the provisions of [section 11(3)] [20-9-104(3)] relating to excess reserves and Public Law 81-874 money apply retroactively, within the meaning of 1-2-109, to district general fund reserves for the school fiscal year beginning July 1, 1992."

BONUS PAYMENTS

q/e 5104 ch. 9022

q/e 5104 ch. 9012 (maxi-code ass'n approp. 24115 A/E 02403

County	District	FY 94 (6/94) Gen.	FY 94 (6/94) Trans.	FY 95 (6/95) Gen.	FY 95 (6/95) Trans.	FY96 (6/96) Gen.	FY96 (6/96) Trans.
Big Horn	Hardin El (0023)	7500.00	970.40	7500.00	970.40	-0-	-0-
Flathead	Cayuse Prairie El (0317)	40,500.00	2362.20	40,500.00	2362.20	-0-	-0-
Gallatin	Three Forks El (0360)	11,250.00	1467.00	-0-	-0-	-0-	-0-
McCone	Circle El (0547)	2700.00	1096.20	2700.00	1096.20	2700.00	1096.20
TOTALS		61,950.00	5895.00				

1470.40
2362.20
3,796.20

To be deposited in fund 01

"General Fund Bonus Pmt"

To be deposited in fund 10

"Transportation Bonus Pmt"

Examine 5 MCA section 20-9-104 (5 6)
general fund operating reserve
add same wording from before

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Education COMMITTEE DATE 4-3-95

BILL NO. SB 423 SPONSOR(S) Sen. Grosfield

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Rich Shaffer Box 131, Wilsall MT 59086	SUPS	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993
wp:vissbcom.man
CS-14

HEARING ON SB 423

Opening Statement by Sponsor:

SEN. LORENTS GROSFIELD, SD 13, Big Timber, stated that SB 423 related to school reserve funds with bonus payments and the payments are requested to stay in the reserve account.

Proponents' Testimony:

Rick Shaffer, Superintendent of Schools, Wilsall, supported the bill and submitted written testimony. **EXHIBIT 1**

Don Waldron, Montana Rural Education Association (MREA), said that this bill was very important because some of the rural areas were going to be developing their areas.

Chris Racicot, Montana Building Association, opposed the bill at first but after working with the sponsor supported it and he recognized the need for rural school districts.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. NORM MILLS asked the sponsor what the bill will allow to be done that cannot be done currently. **SEN. GROSFIELD** replied that the word maximum was placed in the bill because that way they can take the maximum amount or any less. School districts can now accept money for any purpose. He clarified that the maximum amount of payment that the trustees may accept must be based on the number of pupils but another law says that they can take any amount.

REP. JACK HERRON asked for an explanation as to why the word "volunteering" is used. **SEN. GROSFIELD** replied that many programs start off on a voluntary basis to get things going before funding comes in.

REP. MATT DENNY asked and the sponsor clarified that there is not a specific statute with impact fees yet and that voluntary contributions are not required.

REP. VICKI COCCHIARELLA asked why the bill only addresses rural situations and could a subdivision occur without a real negative financial impact on the district. **SEN. GROSFIELD** explained that rural was put in the bill is because in the rural school and agricultural settings there are not very many taxpayers to cover the cost of capital improvements, whereas in towns the taxes are dispersed among many people.

REP. PEGGY ARNOTT questioned why it is limited to real estate developers and subdivision developers. **SEN. GROSFIELD** said that there is a lot of subdivision activity and they would end up with housing requirements anyway.

REP. ARNOTT said that there is currently a mining impact law and mining fees that need to be considered and asked if this bill impacted that. **SEN. GROSFIELD** stated that the mining impact is negotiable.

REP. SONNY HANSON questioned what would happen if everything was stripped out of the bill except the four school districts that have funds. **SEN. GROSFIELD** replied that section 1 is the most important part of the bill but that the other sections look to the future and were important but not essential.

REP. DICK SIMPKINS clarified that section 2 only dealt with real estate developer or subdivision developer. The sponsor agreed.

REP. HANSON disagreed and said that there are specific instances when the subdivision is an integral part of the mining development and is excluded from the negotiations.

REP. MILLS clarified that the impact was to the district's building fund.

{Tape: 1; Side: B; Approx. Counter: 00; Comments: NA.}

Closing by Sponsor:

SEN. GROSFIELD said that he did not have any problem if the committee wanted to take the word "rural" from the bill if it was made clear that the mining impact act would not be overridden.

{Tape: 1; Side: B; Approx. Counter: 65; Comments: NA.}

EXECUTIVE ACTION ON SB 423

Motion: **REP. VICKI COCCHIARELLA MOVED THAT SB 423 BE CONCURRED IN.**

Discussion:

CHAIRMAN ELLIS mentioned that some states have authorized impact fees and they are difficult to defend in court if they are challenged.

REP. MATT DENNY said that the costs of the impact fee assessment are passed on to the people who buy the homes and would end up paying more in property taxes.

SEN. GROSFIELD replied that it would be a small portion of the tax that would be impacted. All the bill deals with are the capital costs of improvement.

REP. DICK SIMPKINS stated that the voluntary rule should be concentrated on and the schools should be allowed to be a part of the planning phase along with the developers.

Motion: **REP. MATT DENNY MOVED TO AMEND SB 423.**

Discussion:

REP. DENNY explained that the amendments would remove the word "rural" from the title and cut subsection (2) completely.

REP. SONNY HANSON remarked that he opposed the amendments because the bill was geared specifically for the rural areas.

REP. VICKI COCCHIARELLA supported the amendment.

REP. SAM ROSE said that the city/county planning boards dealt with these issues and it has to be approved by the county commissioners.

Motion: **REP. MATT DENNY WITHDREW THE AMENDMENT.**

Discussion:

CHAIRMAN ELLIS supported the bill and the idea that people would be encouraged to work together.

REP. NORM MILLS asked what the bill allowed that could not happen now and why not make things mandatory instead of voluntary.

CHAIRMAN ELLIS explained that the bill mandates that the impacted school district will receive a copy of the subdivision plan which is not required now by law.

REP. HANSON stated that the planning occurs before any building is permitted. The school districts will be allowed to establish funds for construction.

REP. SIMPKINS added that the voluntary portion of the bill refers to the payments and the mandatory part refers to the distribution of the plans. The impact of the schools must be considered.

Vote: **The motion carried 17-0.**

MONTANA SENATE
1995 LEGISLATURE
EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL DATE 3/22/95

NAME	PRESENT	ABSENT	EXCUSED
SEN. JOHN HERTEL, VICE CHAIRMAN	✓		
SEN. DELWYN GAGE	✓		
SEN. KEN MASAROS	✓		
SEN. STEVE DOHERTY			✓
SEN. MIGNON WATERMAN	✓		
SEN. BARRY "SPOOK" STANG	✓		
SEN. LOREN JENKINS	✓		
SEN. GARY FORRESTER	✓		
SEN. C.A. CASEY EMERSON	✓		
SEN. DARYL TOEWS, CHAIRMAN	✓		

SEN:1995
wp.rollcall.man
CS-09

SENATE STANDING COMMITTEE REPORT

March 23, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration SB 423 (first reading copy -- white), respectfully report that SB 423 do pass.

Signed: _____
Senator Daryl Toews, Chair

Amd. Coord.
Sec. of Senate

671003SC.SPV

MONTANA SENATE
1995 LEGISLATURE
EDUCATION AND CULTURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3/22/95 BILL NO. SB 423 NUMBER #1

MOTION: Amend SB 423

NAME	AYE	NO
SEN. JOHN HERTEL, VICE CHAIRMAN		✓
SEN. DELWYN GAGE	✓	
SEN. KEN MASAROS		✓
SEN. STEVE DOHERTY		
SEN. MIGNON WATERMAN	✓	
SEN. BARRY "SPOOK" STANG		✓
SEN. LOREN JENKINS		✓
SEN. GARY FORRESTER	✓	
SEN. CASEY EMERSON		✓
SEN. DARYL TOEWS, CHAIRMAN	✓	

SEN:1995
wp:rlclvote.man
CS-11

SHIELDS VALLEY PUBLIC SCHOOLS

HIGH SCHOOL
P.O. Box 40
Clyde Park, MT 59018
Phone 406-686-4621

PARK COUNTY SCHOOL DISTRICTS J12 & 5
P.O. Box 131 • Wilsall, Montana 59086
Superintendent: 406-578-2535
Fax: 578-2176

ELEMENTARY
P.O. Box 131
Wilsall, MT 59086
Phone 406-578-2535

SENATE EDUCATION
EXHIBIT NO. 6
DATE 3/22/95
BILL NO. SB 423

19 January 1995

TO: Senator Grosfield
Representative Anderson

FROM: Rich Shaffer, superintendent

RE: Enabling language for consolidation bonus payment excess reserves

I have investigated further regarding this matter following our telephone conversations. Information from the Office of Public Instruction reveals that, including Shields Valley, there are only five schools involved in this matter in any way. I have contacted each of the other four schools. Their superintendents have informed me that none of them are holding or plan to hold any of the payment funds in reserve. In other words, they are using it as they receive it, perhaps because the amounts are smaller. In any event, Shields Valley appears to be the sole district holding a general fund bonus payment excess reserve.

I am also told that the solution for our dilemma is reasonably straightforward, involving restoration of one sentence in the law. That sentence is MCA 20-9-104, 5 (b), quote: "any amount received as a general bonus payment under 20-6-401." 20-9-104 deals with the topic of general fund operating reserves and part five of that section deals specifically with exemptions on reserve limitations. The 1993 special session removed that sentence, possibly in the belief that there were no longer any schools effected. That is clearly not the case.

To refresh your memory, the district has approximately $150,000 in reserve at this time, and wishes to have the option to hold the funds for a possible facilities expansion project in the future. If this cannot be accomplished, the district must either expend the funds or reappropriate them not later than June 30, 1995.

For your convenience, I have included copies of (1) the printout from OPI re schools receiving payments at this time, and (2) a copy of the relevant statute. Should further information be necessary, please contact me.

amt 1-17-95

20-9-104. General fund operating reserve. (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5) and (6), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Excess reserves as provided in subsection (5) may be appropriated to reduce the BASE budget levy, the over-BASE budget levy, or the additional levy provided by 20-9-353, except that districts with a balance on June 30, 1993, in the excess reserve account for Public Law 81-874 funds shall transfer the June 30, 1993, balance to the impact aid fund established in 20-9-514.

(4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b)(iii).

(5) For fiscal year 1994 and subsequent fiscal years, the limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than one or more of the following:

(a) the unused balance of any amount received:

(i) in settlement of tax payments protested in a prior school fiscal year;

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TOTALS		61,950.00	5895.80				

To be deposited in Fund 01

"General Fund Bonus Pmt"

To be deposited in Fund 10

"Transportation Bonus Pmt"

Examine 20-9-104 MCA section (56) general fund operating reserve add some wording from before

DATE 3-22-95
SB 423

DATE 3/22/85

SENATE COMMITTEE ON Education

BILLS BEING HEARD TODAY: HB 369
HB 485

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Support (Check One)
Cheryl Rees	self	369	X
Tamara Hays		369	
Lynn R. Kern	Self	369	X
Chuck Rell	self	369	X
Jeff GARRARD	Self	369	X
J CRAMER	SELF	369	X
Kim & Melanie Milbourn (4 children in Public School)	Self	369	X
Ken Williams	MPC/ENtech	485	X
John Fitzpatrick	Pupils Bd 101	4/85	X
DON WALDRON	MREA EB	4/23	X
CANACE TORGERSON	MT. CATTLEWOMEN MT. STOCKGROWERS	4/3/85	X X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY